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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/809,143 | 03/25/2004 | Christopher G. Cifra | 5150-82400 | 7400 |

7590 03/02/2006
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EXAMINER

GUTIERREZ, ANTHONY

ART UNIT PAPER NUMBER

2857

DATE MAILED: 03/02/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/809,143

Applicant(s)

CIFRA ET AL.

Examiner

Anthony Gutierrez

Art Unit

2857

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 13 February 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☐ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

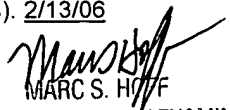
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☒ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). 2/13/06
13. ☐ Other: _____.


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Continuation of 11. does NOT place the application in condition for allowance because: The Examiner believes that the Applicant and he, are in disagreement over the meaning of the claim language regarding "programmatically analyzing prior operations input by the user to determine an input source for the first operation, wherein the input source provides a first input signal". The Applicant seems to be treating this limitation as though it's language is limited to a meaning that the "input" source is actually an "input signal" source. In other words, the Examiner considers the language "input source" to be have a meaning consistent with an originator of an input (in this case, regarding a first operation), whereas the Applicant seems to consider the language to have a meaning consistent with an originator of an input signal itself, something which the examiner would consider to be an "input signal source". Many of Applicant's arguments seem to be regarding this interpretation of meaning. This is not, however, the interpretation of meaning that the Examiner relies on. The Examiner notes that whereas the input source provides for a first input signal, it is not necessarily the originator of the input signal (i.e. a signal generator). That is why the Examiner remains unpersuaded by the Applicant's argument that an image type "is not and cannot be an input source for an input signal for an operation". The Examiner believes that an image type can be an input source for an input signal so long as it provides the signal. The Examiner considers the image type to provide an input signal if it either supplies or makes available the input signal. In the same way that a light switch provides light (by making it available) even though the light bulb is actually supplying it, the Examiner considers the image type to provide the input signal. This is best seen in paragraph 0888, "an image PROCESSOR receiving as inputs the output from the data storage system and the characterization data memory, and PRODUCING a SIGNAL corresponding to...at least one of the IMAGE TYPES of the characterization data" and paragraph 0886 that teaches that the characterization data is compared to the viewer preference that is predicted from a control that monitors a pattern of user activity, and that based on a determination of a high correlation between the two CAUSES the stored program material to be processed by the PROCESSING means. The Examiner believes that with this understanding of language interpretation, his comments in the arguments of the Final Rejection regarding the chronological database sufficiently demonstrate how the reference anticipates Applicant's claimed invention regarding the features of the invention that the database was relied on to address.